

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO
AUG 31 2000

ELAINE WILKERSON,

Plaintiffs

vs.

CIVIL NO. 99-1384 BB/DJS

BETTY DEWEY,

Defendant.

R. H. Stumacher
CLERK

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court *sua sponte*.

I. BACKGROUND

On August 9, 2000, the Clerk of Court sent a letter to Plaintiff putting her on notice that, unless service was effected upon the defendant within eleven days of the date of the Clerk's letter, the Plaintiff's case would be dismissed without prejudice. The Clerk also indicated that 243 days had elapsed from the filing date of the complaint to the date of the letter, and that Fed.R.Civ.P. 4(m) allows only 120 days within which a complaint is to be served on a defendant. To date, the Court record reflects that the defendant has not been served with the complaint.

II. ANALYSIS

Fed.R.Civ.P. 4(m) provides in relevant part that:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the Plaintiff, shall dismiss the action without prejudice as to that defendant

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Plaintiff was notified after 243 days that her lawsuit would be dismissed unless service was effected within eleven days of the date of the Clerk's notification letter. Today's date is August 30, 2000. Twenty-one days have elapsed since the Clerk's notification letter, and the record reflects that the Plaintiff has failed to comply with that letter.

Furthermore, the court has the inherent power to impose a variety of sanctions on litigants in order to regulate its docket, promote judicial efficiency, and deter frivolous filings. Martinez v. Internal Revenue Service, 744 F.2d 71, 73 (10th Cir. 1984). One such sanction within the discretionary authority of the Court is to dismiss an action for want of prosecution. Link v. Wabash R.R. Co., 370 U.S. 626, 629-30 (1962).

Based on the Plaintiff's lack of action in this case, her complaint shall be dismissed without prejudice for want of prosecution.

WHEREFORE,

IT IS ORDERED that this cause of action be, and hereby is, **DISMISSED** without prejudice.

Dated at Albuquerque this 30th day of August, 2000.


UNITED STATES DISTRICT JUDGE